

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HEALTH COALITION, INC.,)
)
Plaintiff,)
)
v.)
)
NEW ENGLAND ALLERGY ASTHMA)
IMMUNOLOGY & PRIMARY CARE,)
P.C. and THOMAS F. JOHNSON,)
Individually)
)
Defendants.)

Civil Action No. 05-cv-11816 MEL

**EXPEDITED ORAL
ARGUMENT REQUESTED**

**MOTION OF HEALTH COALITION, INC. TO
ENFORCE SETTLEMENT AGREEMENT**

Plaintiff Health Coalition, Inc. (“HCI”) hereby moves the Court for an order enforcing the Settlement Agreement between HCI and Defendants New England Allergy Asthma Immunology & Primary Care P.C. (“New England Allergy”) and Thomas F. Johnson (“Dr. Johnson”) (collectively “Defendants”). In support of this motion, HCI relies upon the Memorandum of Law in Support of Plaintiff’s Motion to Enforce Settlement Agreement and the Declaration of Brian M. Forbes dated September 7, 2006, all filed contemporaneously herewith. Specifically, and for the reasons set forth in its supporting memorandum, HCI respectfully requests that the Court:

- a) Enter the Settlement Agreement as an Order of Court;
- b) Order that Defendants perform under the Settlement Agreement, provide the documents and/or information necessary to execute the settlement with HCI; and execute the appropriate documents to effect the settlement between HCI and Defendants;

c) In the event that the Court deems that relief is necessary from the Temporary Restraining Order entered on June 14, 2006 (“TRO”) by the Superior Court for Essex County in an action entitled Atlantic Biologicals Corporation v. New England Allergy Asthma Immunology & Primary Care, P.C. Thomas F. Johnson, M.D., Civ. No. 06-640SD, order that Defendants jointly seek relief with HCI requesting that the Superior Court either approve the HCI settlement as permitted under the existing TRO or modify the TRO to allow the Settlement Agreement between HCI and Defendants to be executed;

d) Award Health Coalition its costs, including its attorneys’ fees, incurred in making this motion; and

e) Grant such other and further relief as the Court deems just and proper.

REQUEST FOR EXPEDITED ORAL ARGUMENT

In light of the Defendants’ delay in finalizing and executing the settlement between the parties and the continued risk of prejudice to HCI, Plaintiff respectfully requests that the Court hear expedited argument on this motion. Plaintiffs’ request oral argument as early as September 11, 2006.

LOCAL RULE 7.1(A)(2) CERTIFICATION

Counsel for Plaintiff has conferred with Defendants’ counsel pursuant to Local Rule 7.1(A)(2) regarding the issues presented by this motion, have attempted in good faith to resolve or narrow the issues, but counsel have been unable to reach agreement on the issues raised by this motion.

Respectfully submitted,

HEALTH COALITION, INC.,

By its attorneys,

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Dated: September 7, 2006

CERTIFICATE OF SERVICE

I hereby certify that this document, filed on September 7, 2006 through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on September 7, 2006.

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